

UGOCHI ANAEBERE-NICHOLSON (SBN 234069)
1 KENNETH W. BABCOCK (SBN 100183)
PUBLIC LAW CENTER
2 601 Civic Center Drive West
Santa Ana, CA 92701
3 Telephone: 714-541-1010, ext. 280; Facsimile: 714-541-5157
Email: unicholson@publiclawcenter.org
4
5
6
7
8

UNITED STATES DISTRICT COURT
9
CENTRAL DISTRICT OF CALIFORNIA
10

11 ORANGE COUNTY CATHOLIC
12 WORKER, an unincorporated
13 association; Lisa Bell, Shawn Carroll,
14 Melissa Fields, Larry Ford, Cameron
15 Ralston, Kathy Schuler, Gloria
16 Shoemake, as individuals;
17 Plaintiffs,
18 v.
19 ORANGE COUNTY, the City of
20 Anaheim, the City of Costa Mesa, and
21 the City of Orange,
22 Defendants.

} Case No.: 8:18-cv-00155-DOC-(KESx)
}{
}{ BRIEF OF *AMICI CURIAE* THE
}{ PUBLIC LAW CENTER AND THE
}{ KENNEDY COMMISSION IN
}{ SUPPORT OF PLAINTIFFS'
}{ APPLICATION FOR A
}{ PRELIMINARY INJUNCTION
}{ [Honorable David O. Carter]
}{
}{ Complaint Filed: January 29, 2018
}{ Trial Date: None Set
}{ Hearing Date: February 13, 2018

23 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF
24 RECORD:
25
26
27
28

///
///
///
///

1 Pursuant to the Court's minute order of February 6, 2018 (Document 53),
2 inviting written briefing from any amicus groups which may include "[S]ervice
3 providers... and housing organizations," *Amici Curiae* The Public Law Center and
4 The Kennedy Commission (hereinafter referred to as "*Amici*," unless otherwise
5 noted), hereby submit this Amicus Brief in support of Plaintiffs' Application for a
6 Preliminary Injunction.

7 Respectfully Submitted,
8
PUBLIC LAW CENTER

9 Dated: February 9, 2018

10 /s/ Ugochi Aneabere-Nicholson
11 By: UGOCHI ANAEBERE-
12 NICHOLSON

1 STATEMENT OF INTEREST OF *AMICI CURIAE*

2 1. The Public Law Center is a 501(c)(3) nonprofit that has championed the
3 rights of low-income residents in Orange County since 1981. In 2017, Public Law
4 Center staff and volunteers provided over 65,000 hours of free legal services in
5 handling over 4,500 cases benefiting low-income children, adults, and seniors.
6 Public Law Center's services include counseling, individual representation,
7 community education, strategic policy advocacy, and impact litigation to challenge
8 societal injustices. In its Housing and Homelessness Prevention Unit, Public Law
9 Center seeks to empower communities by preventing homelessness, preserving and
10 expanding affordable housing, and protecting the housing rights of low-income
11 families by representing low-income families in housing related matters,
12 advocating for sensible strategies to end homelessness in Orange County, and
13 collaborating with community organizations, statewide advocates, and law firms to
14 push Orange County jurisdictions to create effective housing policies for lower-
15 income individuals and families.

16 2. The Kennedy Commission is a collaborative of community members that
17 advocates for the production of homes for Orange County families earning less
18 than \$20,000 annually. The Kennedy Commission strives to develop solutions to
19 housing needs, affirms the dignity of families with low and extremely low-
20 incomes, and unites communities across Orange County to support the
21 development of homes that are affordable to all residents. Originally convened in
22 1995 as an all-volunteer organization, and formally incorporated in 2001, The
23 Kennedy Commission was named in memory of Orange County resident Ralph
24 Kennedy, a pioneer of affordable homes and human rights advocacy. Through its
25 extensive network, The Kennedy Commission works at the federal, state, and local
26 level to provide education on housing needs and create public policy that results in
27 the production of affordable housing for families earning less than \$20,000
28 annually in Orange County. The Kennedy Commission has been successful in

partnering with jurisdictions in Orange County to create effective policies that have led to the new construction of 4,000 affordable housing units for lower-income working families in Orange County.

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

Amici Curiae The Public Law Center and The Kennedy Commission support the arguments made by Plaintiffs, Orange County Catholic Worker, *et al.*, in their motion. *Amici* respectfully request that the Court grant Plaintiffs' motion because in their respective organizations, *Amici* have observed the increase in enforcement against persons in Orange County who are homeless and who lack affordable housing options. This enforcement includes, but is not limited to, the issuance of infractions and the enactment of misdemeanor anti-loitering, trespassing, "aggressive solicitation," and anti-camping ordinances throughout Orange County. *Amici* submit that these ordinances are not designed to solve the humanitarian crisis of homelessness in Orange County, but are rather designed to criminalize the unavoidable behaviors of homeless people such as sleeping outside or having property and no place to store it. For the reasons set forth below, *Amici* respectfully request that the Court grant Plaintiffs' motion.

ARGUMENT

In its minute order of February 6, 2018, the Court stated the following concerns with allowing Defendants to continue their actions in evicting residents from the Riverbed:

"[T]hat persons who leave or are evicted from the Riverbed may subsequently be cited by Defendant Cities under those Cities' anti-camping or anti-loitering laws, even

1 though those persons may not be able to find a shelter or other
2 place to sleep.”¹

3 *Amici* share the concerns of the Court and respectfully request the Court
4 grant Plaintiffs’ request for a Preliminary Injunction and stop the evictions at the
5 Riverbed because *Amici* has opposed the enactment of anti-camping, “aggressive
6 solicitation,” and anti-loitering ordinances in Orange County.² In addition, *Amici*
7 has advocated for the increase in and the preservation of affordable housing
8 opportunities in many cities in Orange County, including, but not limited to, Santa
9 Ana, Garden Grove, Costa Mesa, Huntington Beach, Mission Viejo, and Tustin. It
10 is evident Orange County does not want to dedicate any of its vast resources to
11 solve the homelessness crisis, as evidenced by more cities in Orange County
12 moving to enact their own anti-camping and anti-loitering ordinances.³ Further,
13 *Amici* are informed and believe Orange County has several hundred of millions of
14 dollars that have been earmarked to meet the needs of Orange County’s most
15 vulnerable residents, including the homeless, many of whom live at the Riverbed,
16 but Orange County refuses to use these funds to address its homelessness issues.⁴

17 Moreover, the housing options are abysmal for people in Orange County
18 who reside in low-income communities. A recent study found that Orange County
19

20 ¹ *Orange County Catholic Worker, et al. v. Orange County, et al.*, Case 8:18-cv-00155-DOC-(KESx) (C.D. Cal.
2/6/18) (citing Order Setting Injunction Hearing (Dkt. 50).)

21 ² Recently, *Amici* has opposed anti-camping and anti-loitering campaigns in these cities: Mission Viejo (September
12, 2017 - Anti-Camping:

22 <http://dms.cityofmissionviejo.org/sirepub/cache/2/vfe2he5kjfxvnyxccefpl4yp/313705702082018103101647.PDF>;
Tustin (November 21, 2017 - Anti-Camping or Vagrancy:

23 <http://econnect.tustinca.org/Weblink8/DocView.aspx?id=556440&dbid=0>; Santa Ana (October 17, 2017 - "Anti-
Camping" http://santaana.granicus.com/MediaPlayer.php?view_id=2&clip_id=1357&meta_id=53331); and
Anaheim

24 (September 12, 2017 Homelessness State of Emergency

25 http://local.anaheim.net/docs_agend/questys_pub/14558/14588/14590/15353/15382/1.%20Resolution15382.pdf

26 ³ See San Clemente (Feb. 6, 2018 (First Reading) - Anti-Camping, available at <http://www.san-clemente.org/Home>ShowDocument?id=43818> Peace, Morals, and Welfare (no lying down on sidewalks, etc.):
<http://www.san-clemente.org/Home>ShowDocument?id=43820>), last visited on February 6, 2018.

27 ⁴ See *Orange County gets \$23 million to fight homelessness*, available at
<https://www.ocregister.com/2018/01/11/187-million-in-federal-grants-coming-to-southern-california-to-help-homeless/>, last visited on February 8, 2018; see also *David Ramirez, et al. v. The County of Orange*, No. 2:18-cv-01027 (C.D. Cal. filed Feb. 7, 2018).

1 needs at least 109,965 more affordable rental homes.⁵ Renters need to earn more
2 than 3.5 times the local minimum wage just to afford the base median rent for an
3 apartment in Orange County—which has risen to a staggering average of \$1,950
4 per month.⁶ The situation for homeless people in Orange County is dire. The Point-
5 In-Time Count for Orange County that took place on January 28, 2017, the most
6 recent for which data is available, registered 4,792 persons who are homeless on
7 any given night, and by all accounts, the numbers are growing. Yet, in response,
8 Orange County only has 1,579 emergency and transitional shelter spots, and many
9 of these are reserved for special populations such as families or survivors of
10 domestic violence. There are no shelters where homeless people can seek refuge,
11 as many of the shelters that are available are over capacity on most nights.⁷
12 Further, the Bridges at Kraemer Place, North Anaheim—Orange County’s only
13 year-round emergency shelter and multi-service center—is at capacity. Likewise,
14 the Courtyard, a former open-air bus terminal near Santa Ana’s Civic Center that
15 was never intended for human habitation, is also at capacity. While there are
16 armories in Orange County, these facilities are only open at night, and they are
17 extremely limited in their capacity in terms of space. They are also largely
18 unsuitable to meet the needs of persons with disabilities. Moreover, there are
19 approximately 21,000 leased Section 8 households county-wide, but permanent
20 affordable units are generally at full occupancy, with over 90,000 households on
21 the waitlist. The actions by Defendants to forcibly evict residents at the Riverbed
22 come at time when Orange County has refused to invest in solutions to end its
23 homelessness and affordable housing crisis.⁸ *Amici* respectfully request that the

24
25 ⁵ *Orange County Renters in Crisis: A Call for Action*, California Housing Partnership and Kennedy Commission
26 (Cesar Covarrubias), May 2017, available at <https://chpc.net/wp-content/uploads/2017/05/Orange-County-2017.pdf>, last visited on February 7, 2018.

26 ⁶ *Id.*, emphasis added.

27 ⁷ See *An Assessment of Homeless Services in Orange County* (2017), Susan Price, available at
http://bos.ocgov.com/ceo/care/HOMELESS%20ASSESSMENT%20DCC%20REPORT_10.18.2015.pdf, last visited on
September 8, 2017, pp. 13, 23.

28 ⁸ See *Orange County Catholic Worker, et al. v. Orange County, et al.* No. 8:18-cv-00155 (C.D. Cal. filed Jan. 29, 2018); see also
David Ramirez, et al. v. The County of Orange, supra, No. 2:18-cv-01027 (C.D. Cal. filed Feb. 7, 2018).

1 Court grant Plaintiffs' motion and enjoin Defendants from causing any more harm
2 to its most vulnerable residents.

3 At the end of last year, Governor Jerry Brown signed an unprecedented
4 package of laws to address the housing crisis in California. The money raised by
5 the changes in the law, however, will fall short of solving the problem and would
6 require a commitment of local matching funds from Orange County. To keep up
7 with California's growing population, it would need 180,000 new market-rate
8 homes each year. Despite the robust nature of the legislation passed at the state
9 level, it is estimated to raise enough for only 14,000 new units.⁹ Additionally, a
10 recent report from HUD found a significant increase in the number of reported
11 persons experiencing unsheltered homelessness, particularly in California where
12 there is a significant lack of affordable housing.¹⁰ This is especially the case in
13 Orange County where the lack of investment in affordable and supportive housing
14 opportunities for low-income communities has unnecessarily compounded and
15 contributed to the homelessness issue and forced people to sleep on the streets.

16
17
18
19
20
21
⁹ See Gov. Brown just signed 15 housing bills. Here's how they're supposed to help the affordability crisis, Los Angeles Times,
22 September 29, 2017, available at <http://www.latimes.com/politics/la-pol-ca-housing-legislation-signed-20170929-htmlstory.html>,
last visited February 8, 2018.

23
24
25
26
27
28
¹⁰ See San Francisco mulls state of emergency over homelessness. But will it help? The Guardian, March 10, 2016, available at
<https://www.theguardian.com/us-news/2016/mar/10/san-francisco-state-of-emergency-homelessness-crisis>, last visited on
February 8, 2018, citing the statistic that in California, 63.7% of the homeless population lacks shelter; see also Homelessness
Declines in Most Communities of the U.S. With Increase Reported in High-Cost Areas, HUD-17-109, available at
https://www.hud.gov/press/press_releases_media_advisories/2017/HUDNo_17-109, last visited on February 8, 2018 ("HUD's
2017 homeless estimate [533,742 people] points to a significant increase in the number of reported persons experiencing
unsheltered homelessness, particularly in California where there is a significant lack of affordable housing." (Emphasis
added)); United States Department of Housing and Urban Development's The 2017 Annual Homelessness Assessment Report,
available at <https://www.hudexchange.info/resources/documents/2017-AHAR-Part-1.pdf>, last visited on February 8, 2018, at
pp. 12, 13, 16-18, 24-29, 47-79 (increase in California for unsheltered populations, including individuals, families with children,
youth, and veterans. The areas surveyed in HUD's Report are located in the most populous regions in California, including
Sonoma, Santa Clara, San Francisco, Fresno/Madera, Los Angeles, Riverside, Orange, and San Diego Counties. These Counties
reported a major uptick in the number of unsheltered persons in their populations.)

CONCLUSION

For these reasons, *Amici* respectfully request that the Court grant Plaintiffs' motion.

Respectfully Submitted,
PUBLIC LAW CENTER

Dated: February 9, 2018

/s/ Ugochi Anaebere-Nicholson
By: UGOCHI ANAEBERE-
NICHOLSON

PROOF OF SERVICE

I hereby certify that on February 9, 2018, I caused to be filed electronically via the Court's CM/ECF System, and thereby served on all counsel, a true and correct copy of this Brief of Amici Curiae on the following persons:

Brooke Weitzman, Esq.

William Wise, Esq.

Elder Law and Disability Rights Center

[Counsel for Plaintiffs, Orange County Catholic Worker, et al.]

Carol A. Sobel, Esq.

Monique Alarcon, Esq.

Avneet Chatta, Esq.

Law Office of Carol A. Sobel

[Counsel for Plaintiffs, Orange County Catholic Worker, et al.]

Paul L. Hoffman, Esq.

Catherine Sweetser, Esq.

Colleen M. Mullen, Esq.

Schonbrun, Seplow, Harris & Hoffman

[Counsel for Plaintiffs, *Orange County Catholic Worker, et al.*]

Leon James Page, Esq.

Marianne Van Riper, Esq.

Laura Knapp, Esq.

Ofc. Orange County Counsel

P.O. Box 1379

Santa Ana, CA 92702

[Counsel for Defendants, Orange County, et al.]

1 Pursuant to L.R. 5-4, a chamber copy of this Amicus Brief was delivered on
2 February 9, 2018, to:

3 Honorable David O. Carter
4 Ronald Reagan Federal Building
5 United States Courthouse
6 411 West Fourth Street, 9th Floor, Courtroom D
7 Santa Ana, CA 92701

8 I declare under penalty of perjury pursuant to the laws of the State of
9 California that the foregoing is true and correct.

10 Executed February 9, 2018, at Santa Ana, California.

11 /s/ Ugochi Anaebere-Nicholson

12 Ugochi Anaebere-Nicholson